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THE TREATMENT OF BURGOYNE'S TROOPS UNDER THE SARATOGA CONVENTION

THE attempt to cut New England off from the rest of the revolting American colonies was reaching its inglorious end. The plan had been a brave one. Burgoyne was to proceed down Lake Champlain, to go across country to the region of Albany and there to meet St. Leger, who was to advance from the west, and Howe, who was to push up the Hudson. But St. Leger's army was dispersed; Howe failed to coöperate; and so, instead of making a triumphant union at Albany, Burgoyne found himself alone near Saratoga, on October 12, 1777, in such a position that the annihilation of his army seemed imminent. The commander therefore called a council of war and presented to it the following courses of action: (1) To await an attack in the present position at Saratoga. The chief objection to this was want of provisions. (2) To attack the enemy. It seemed hopeless to attempt to break through the superior numbers of the enemy, strongly posted and entrenched at every point. (3) To retreat. A majority finally reported in favor of doing this. Scouts, however, brought in information that not a movement could be made without immediate discovery by the enemy, and General Burgoyne submitted for consideration the only alternative—surrender. On the 13th, a council unanimously decided that "the present situation justifies a capitulation upon honorable terms."¹

On the 14th, General Burgoyne sent a message to General Gates, proposing a cessation of hostilities during the time necessary for communicating terms. The latter authorized a cessation of hostilities until sunset and forwarded a series of proposals, providing for the surrender of Burgoyne's army and its march to New England. To the sixth of these stipulations Burgoyne flatly refused to agree. As proposed by Gates it read: "These terms being agreed to and signed, the troops under his Excel-

¹ Burgoyne, *State of the Expedition*, appendix lvi.

lency's, General Burgoyne's command, may be drawn up in their encampments, where they will be ordered to ground their arms, and may thereupon be marched to the river side on their way to Bennington." ¹ To this the reply was: "This article is inadmissible in any extremity. Sooner than this army will consent to ground their arms in their encampments, they will rush on the enemy determined to take no quarter." ² Gates gave way, and instead of the offensive article he substituted: "The troops under General Burgoyne to march out of their camp with the honours of war, and the artillery of the entrenchments, to the verge of the river, where their arms and their artillery must be left. The arms to be piled by word of command from their own officers." ³ By another article, free passage home by way of New England was granted to the captives, on condition of their not serving again in the war. An agreement was quickly reached; and on October 16 the terms of the surrender, commonly called the Convention of Saratoga, were finally agreed upon. In brief, the more important sections of the convention were as follows: The arms and artillery of General Burgoyne's army to be given up (art. 1). The troops to be sent to England by way of Boston, on condition of not serving again in the war (art. 2). Provisions to be supplied to General Burgoyne's army "by General Gates's orders," at "the same rate of rations as the troops of his own army" (art. 5). "No baggage to be molested or searched, Lieut. Gen. Burgoyne giving his honour, there are no public stores secreted therein" (art. 6). Officers and men to be kept together "as far as circumstances will permit" (art. 7). Officers to be admitted to parole during their stay in Massachusetts (art. 11). ⁴

Easier terms to a conquered army could hardly be imagined. The prisoners were merely to give up their arms and to promise not to take further part in the war. The victors had to furnish guards, to march General Burgoyne's army to Boston, to supply provisions, to provide barracks for the common soldiers and quarters for the officers, to take care not to separate officers

¹ De Fonblanque, *Burgoyne*, p. 307.

² *Ibid.* p. 308.

³ *Ibid.*

⁴ The convention is printed in many places, *e. g.* Winsor, VI, 317, 318.

and men and to allow officers the privilege of parole. Every one of these agreements they sooner or later found trouble in keeping or were accused of violating. As for the prisoners, after they had once laid down their arms they had everything to gain from a scrupulous observance of the convention and everything to lose by breaking it. The Americans had much to gain by breaking it and little to gain by keeping it. Under such circumstances the British would naturally cry out upon every slightest infraction of the agreement, while the Americans would always be on the watch for any pretext to say that the British had broken it.

How favorable the treaty was considered by the English may be shown by the testimony of their leaders. Sir Henry Clinton, writing to General Burgoyne from New York, December 16, 1777, excused his failure to assist Burgoyne on the score of his lack of troops, and added: "As it was, I cannot but flatter myself that the stroke which the late and scanty reinforcement of recruits enabled me to make was of service to you in your Convention, which I agree with you was most favourable."¹ And the Earl of Harrington, captain in the 29th regiment, in his testimony during the parliamentary investigation of the campaign, replying to a question about the favorableness of the terms, said: "Few persons in the army expected so good terms as those which were granted."²

The considerations which influenced General Gates to conclude a peace so advantageous to the enemy are set forth in a message to Congress delivered by Colonel Wilkinson:

I have it in charge, from Major General Gates, to represent to the Honourable, The Congress.—

That, Lt. General Burgoyne at the Time he Capitulated, was strongly Intrenched on a Formidable Post, with 12 Days Provision: That the Reduction of Fort Montgomery and the Enemies consequent Progress up the N[orth] River endangered our Arsenal at Albany; a Reflection which left Him no Time to Contest the Capitulation with Lieut. Genl. Burgoyne, but induced the Necessity of immediately closing with his

¹ De Fonblanque, *Burgoyne*, p. 324.

² *Burgoyne, State of the Expedition*, p. 56.

Proposals, hazarding a disadvantageous Attack, or retiring from his Position for the security of our Magazine, this delicate Situation abridged our Conquests & procured Lt. Genl. Burgoyne the Terms he enjoys—had an Attack been carried against Lt. Genl. Burgoyne, The dismemberment of our Army must Necessarily have been such as would have incapacitated It for further Action this Campaign—With an Army in Health, Vigour, & Spirits Major General Gates, now awaits the Commands of the Honl. Congress. . . .

Gates's position was better and Burgoyne's worse than the above plea indicates. At the last council of war which Burgoyne held before the capitulation, several of his officers declared their position untenable, some of the regiments disheartened or not to be depended upon and most of the best officers sick or wounded.² Gates could not have been ignorant of his great superiority in numbers,³ as the campaign had already been a long one, and besides he had long before received accurate information of the size of Burgoyne's army.⁴ The danger from the progress of the enemy up the North River was indeed to be considered; yet at the time when his anxiety on this account was influencing Gates so strongly, Burgoyne's council of war was resolving: "Should General Clinton be where reported, yet the distance is such as to render any relief from him improbable during the time our provisions could be made to last."⁵ Apparently General Gates should have come to the same conclusion. During the last part of September and the first part of October, he was constantly receiving information of the movements of Clinton from Colonel Hughes, General Putnam and others.⁶ How many messages he may

¹ Copy of the original in the Gates papers, New York Historical Society. Printed with few changes in Wilkinson, *Memoirs*, I, 333.

² Burgoyne, *State of the Expedition*, appendix lx.

³ The Americans had 13,216 rank and file fit for duty, while the British had 4157. Gates Papers, "Returns" and vol. 10.

⁴ See a letter to Gates from the Council of Safety of Vermont, September 20, 1777. Gates Papers, vol. 9.

⁵ Burgoyne, *State of the Expedition*, appendix lx. General Clinton had attempted to aid Burgoyne by a brief but vigorous raid up the Hudson, during which he captured Fort Montgomery and did considerable other damage.

⁶ Gates Papers, September–October, 1777.

have received which have not come down to us, we of course cannot know; but the existing letters do not reveal a situation which should have disquieted a determined soldier. To be sure, the capture of Fort Montgomery aroused alarm, and Colonel Hughes feared that the Americans were about to get into "a confounded Hobble"; but on the whole the information received by Gates shows Clinton's advance to have been so slow that the former could easily have destroyed Burgoyne's army and then have prepared to face Clinton in case the latter came further up the river. However, Gates was undoubtedly acting within his powers as a military commander when he agreed to the terms of the convention; and anything which shows these terms to have been too easy shows indeed how great must have been the temptation to break the agreement, but does not excuse any departure from its provisions.

Of the way in which the British looked upon the convention while it was in the making, and of the German view of the pledges given to the Americans, General Riedesel, commander of the Germans in Burgoyne's army, has left us spicy and naive accounts. The general's story is given in the well-known *Memoirs*¹ of his wife, Madame de Riedesel. According to this story, the commissioners from the two sides finished their work at eleven in the evening, and the British commissioners retired to their lines, promising to return the treaty in the morning, with their commander's ratification. The convention was now in its final form, had been verbally agreed to by both generals, but had not yet been signed by Burgoyne. Not long after the British commissioners returned to their lines,

a deserter informed us that he had heard that general Clinton had not only taken the intrenchments on the Highlands, but that a week ago, he had advanced with his troops and his fleet to Aesopus, and must, in all probability, have reached Albany, by this time. General Burgoyne, and several other officers, were so much elated with this news, that they began to think of breaking the capitulation.²

¹ Translation, 1827, pp. 156 *et seq.* Cf. Burgoyne, *State of the Expedition*, pp. 32, 33, 38, 39.

² Riedesel, *Memoirs*, pp. 156, 157.

Another council of war was instantly convened and the questions put: (1) Whether a treaty definitively settled by commissioners could be broken, even after the general had promised to sign it, "without a violation of the rule of honour." On this question, fourteen voted in the negative; but eight declared that it would be honorable to break a treaty which had been concluded under such circumstances and by which everything had been granted that was required by the party now repudiating the agreement. (2) Whether the intelligence just received was sufficiently authentic to justify the rupture of so advantageous an arrangement. Opinions were divided:

Those who were in the negative, were influenced by the consideration that the intelligence received was mere hearsay. It would be very different, said they, if general Clinton had sent a despatch, or if the informer had arrived from that general's army; and, even if the general was at Aesopus, he would yet be too distant to relieve us from our desperate situation.¹

At a later council of war General Burgoyne appealed to General Riedesel for his opinion, and the latter declared "that, after all the steps which had been taken, he considered it as still more dangerous to break the treaty on the ground of news which were so uncertain and unauthentic" (than to be called to account for the failure of the expedition). Brigadier General Hamilton was of the same opinion. "After much deliberation, general Burgoyne resolved to ratify the capitulation, and he forwarded it by major Kingston."²

Equally cool is the story which the Germans tell of how they deceived the Americans in regard to the German flags. "General Riedesel ordered that no colours should be surrendered with the arms; that the staves should be burnt, and the flags carefully packed up: by means of which, each of the German regiments remained in possession of its colours." When at a later

¹ Riedesel, *Memoirs*, pp. 156-158.

² The memoir of General Riedesel from which this account was taken was dated, the translator says, October 18, 1777, and was signed and certified by all the officers who had commanded the several German regiments and battalions.

period Burgoyne's army was ordered to Virginia, further precautions were taken. Mme. Riedesel completes the story:

On that occasion it became incumbent on me to devise new means of preserving the colours of the German regiments, which we had made the Americans believe we had burned. . . . We had, however, only sacrificed the staves, and the colours had been carefully concealed. My husband having told me this secret, . . . I shut myself up in my room with an honest tailor, to make a mattress, into which we introduced them. Captain O'Connel, under pretence of some commission, was sent to New York, and he took the mattress in lieu of a bed; and he did not part with it until his arrival at Halifax. There I received it again, while we were on our voyage from New York to Canada, and, in order to avoid all suspicion, if our ship should be attacked, I kept it in my cabin, and slept, during all the rest of our passage, upon these honourable badges.¹

Some of the British flags also were hidden away in General Burgoyne's baggage, although he had declared upon his honor that no public stores were secreted therein.² These colors were kept by Lieutenant Colonel Hill of the ninth regiment, and in 1781, when he returned to England, he presented them to George III. Hill was appointed aide-de-camp to his majesty, with the rank of colonel in the army.³

Meanwhile the "convention troops," on the day after the formal exchange of the articles of convention, had begun their march toward Boston—over the Green Mountains from Saratoga to the Connecticut valley, down the valley through the historic towns of Northfield, Deerfield and Hatfield, then east across the river and through Hadley, Amherst and Worcester to Cambridge. The last mentioned place was reached November 6. The English were quartered on Prospect Hill, the Germans on Winter Hill. The officers were allowed to quarter themselves in the towns of Cambridge, Mystic and Watertown, and were given a parole district of about ten miles' circumference;

¹ Riedesel, pp. 200, 201.

² Cf. article 6 of the convention.

³ See a fuller discussion of this topic in Horatio Rogers, Hadden's Journal and Orderly Books, appendix, pp. 400 *et seq.*

but to preserve order among the common soldiers, three officers of each regiment constantly resided in the barracks.¹

Instead of being immediately transported to England, as they had expected, the troops remained prisoners in Cambridge until they were sent to Virginia in November, 1778. During this interval several vexatious difficulties arose which soured relations between the two armies, led Congress to grow more and more suspicious of the good faith of the British, caused the British to lose all trust in the Americans, and ended in keeping the convention troops in America until the close of the war. In the course of these controversies the convention was torn to pieces and cast to the four winds. The causes of the trouble were: (1) The quartering and provisioning of the captured officers and soldiers. (2) Disorderly behavior by the prisoners and scuffles which broke out between them and the American sentinels. (3) The attempt of General Heath, the commanding officer in Massachusetts, to get descriptive lists of the "conventioners," in order to discover them if they tried to return to America after being transported to England. The development of ill-feeling will be described, in order to show how it brought about the resolutions of Congress (January 2, 3 and 8, 1778) indefinitely delaying the embarkation of the troops.

General Heath, who was in command of the Eastern department, with headquarters at Boston, realized that the coming of the convention troops to Cambridge would put a heavy burden on his shoulders. As soon as he knew that the prisoners were to be under his direction, he began the building of barracks and the collection of fuel and provisions—matters which gave him great uneasiness, since he thought that the British were used to much better quarters than he could supply, and fuel and food were scarce.² At the outset pleasant relations were established

¹ The best account of the experiences of these prisoners from the British soldier's point of view is contained in a series of breezy letters by Thomas Anburey, published in two volumes under the title: *Travels through the Interior Parts of North America* (London, 1791). The first volume contains a map showing the travels of the convention troops. The paragraph in the text is based on the map and on vol. ii, pp. 54-58.

² Heath to Washington, October 25, 1777. *Heath Papers* (Massachusetts Historical Society Collections, series 7, vol. iv), part ii, pp. 166, 167.

between General Heath and General Burgoyne. As soon as the prisoners arrived, their commander was entertained at dinner by Heath. The crowds that flocked to see the captive Briton pass along the streets treated him with respect . . . "dignified conduct" on the part of his "dear countrymen" which "charmed" Heath's "very soul."¹ But his soul was to be racked rather than charmed, for a cloud much larger than a man's hand was already above the horizon. While the convention troops were on the way to Cambridge, the Council of Massachusetts had been applied to for aid in getting quarters for the officers in private houses. A committee of the legislature was appointed to attend to the matter, but it did not succeed in finding enough rooms. The committee blamed Heath for this, and the latter reciprocated in emphatic terms. On November 11 he wrote to the Council:

The unhappy and disgraceful situation of Genl. Burgoyne and his officers is the only reason that constrains me again to write you on the subject of providing them with proper quarters. . . . The officers now begin to appear disgusted. . . . The honor of the State is in danger, the publick faith responsible, circumstances will no longer admit of delay, decisive measures must be immediately adopted. . . .²

He suggested that one of the Harvard College buildings might be obtained, but the suggestion was not carried out. November 18 he again complained to the Council, stating that he had allowed Burgoyne to send a messenger to Washington and to Congress, to represent to them that the convention had been broken as to quarters.³ Recrimination, however, failed to bring any result, and the officers were allowed to accommodate themselves with rooms wherever they could find them within the limits of their parole.⁴ Blame for this state of affairs can hardly be laid wholly upon either General Heath or the Council. General Glover⁵ probably stated the real reason for the trouble

¹ Heath, *Memoirs*, p. 137.

² Heath Papers, II, 176, 177.

³ *Ibid.* II, 178, 179.

⁴ Amburey, II, 54, 55. Heath Papers, II, 180.

⁵ Commander of the escort from Saratoga to Cambridge.

when he wrote to General Gates that quarters could not be obtained for the British officers, "as the Inhabitants of Cambridge are totally averse to accommodating them. . . . ('They cannot forget the burning of Charles-Town.')

This difficulty in finding quarters led directly to the suspension by Congress of the embarkation of the troops. On November 14, Burgoyne had written to Gates complaining of the lack of quarters and had used the phrase, "the public faith is broke."² This careless expression was pounced upon by Congress. On January 2, it resolved that Burgoyne's letter to Gates was unwarranted and was a strong indication of his intention to break the obligation to which he had subjected himself. It was voted "that the security which these states have had in his personal honor is hereby destroyed," and the next day it was voted to detain the troops.³

The vexation caused by unsatisfactory quarters was increased by the scarcity of provisions and of fire-wood. The journals of the prisoners abound in complaints on these scores.⁴ Heath was doing as well as he could to supply food and wood, but he was struggling against heavy odds. Wood was very scarce, the inhabitants themselves not being able to get a sufficient supply.⁵ The American army had occupied the region in 1775, and the cruisers of the English prevented bringing a supply of fuel from outside. Provisions were costly, partly because of real scarcity and partly because of inefficient commissary service. Funds were low.⁶ Furthermore, the enforced inactivity of the men made them fretful and fault-finding, while every renewed delay in their embarkation made them more and more unruly.⁷

¹ December 4, 1777. Gates Papers, vol. 11, in New York Hist. Soc. For the correspondence of Heath on this topic, see Heath Papers, II, *passim*, and especially pp. 173, 176, 178, 182, 186, 191.

² Journals of Congress, IV, 4; Anburey, II, 77. See the letter in American Antiquarian Society Proceedings, October 22, 1877, p. 41.

³ Journals of Congress, IV, 4-7.

⁴ See, e. g., R. Lamb, Journal, pp. 196 *et seq.*; Anburey, II, 54, 55.

⁵ Heath Papers, II, 166, 167; Heath, Memoirs, p. 134.

⁶ Cf. Heath Papers, II, 180, 212, 215; Rogers, Hadden's Journal, pp. 328 *et seq.*

⁷ "Our ennui increases and becomes almost unbearable." Letter of a prisoner, quoted in Schlözer, Briefwechsel, IV, 381.

Discipline was the second great problem which confronted both sides. The commanders feared disorder from the beginning, and time justified their anxiety. The situation at Cambridge, Anburey wrote on December 9, had become unpleasant and dangerous. The soldiers were in continual broils with the American guards, "which are composed of militia, who not being under very great discipline, not only infringe their orders, which perhaps they do not comprehend, or else use their authority as they think proper; . . ."¹ On the other hand, Burgoyne, in his orders to his troops on November 12, said that great numbers of soldiers flocked to town and were "productive of many irregularities." On this account a field officer was appointed to superintend absences. No soldier was to go out without a pass and passes were to be granted from 8 A. M. to 3 P. M. only. Two days later he again called the attention of his officers to irregularities and urged more care.² On January 10, Heath wrote to Burgoyne:

Complaints of most enormous abuses, have lately been made to me; one, of the conduct of a number of officers on the evening or night of the 25th of December, at Braddish's tavern; others, of prisoners being rescued from the guards—centinels abused and insulted on their posts—passes counterfeited, and others filled up in the most affrontive manner; and of late, several highway robberies committed in the environs of the garrison. . . .³

On the same day, Burgoyne, in his orders to his troops, said that among the frays which had lately occurred he observed, "with infinite Concern," that too many were imputable to "the Indiscretion of our own Troops; of this, the attacks upon the Provincial Sentries, and the forging of Passes, are particularly glaring . . . Our own Officers should be the first to detect and punish Offences of this sort . . ."⁴ On the whole, the blame is justly distributed in Burgoyne's letter to Heath, of January 13: "That there have been levities, indiscretions, faults of

¹ Anburey, *Travels*, II, 72, 73.

² Rogers, *Hadden's Journal and Orderly Book*, pp. 327 *et seq.*, 340.

³ Heath, *Memoirs*, p. 153.

⁴ Rogers, *Hadden's Journal*, pp. 338, 339.

omission, of neglect, and of liquor, I am ready to believe: but I have never spared any efforts to correct them and they have been pretty well atoned by the beating, imprisonment, and death received at the hands of your people."¹

Brutal conduct on the part of a certain Colonel Henley formed one of the most specific of the British grievances.² On General Burgoyne's complaint Colonel Henley was tried by court martial. At this trial Burgoyne charged that "wanton barbarities have been committed, and a general massacre of the troops under my care, apparently threatened."³ The evidence seems clear that Henley had acted in an outrageous manner and had stabbed a British soldier, though it is difficult, if not impossible, to find out just how much blame should be attached to provocation on the part of the British soldiers and how much to the American officer's hot temper. Henley himself made no defence except to say that he had done nothing but what the honor and safety of the country required.⁴ His defenders claimed that the seriousness of the affrays had been over-estimated and that Henley had been provoked by the haughtiness of the British, although they admitted that he had acted with warmth. Burgoyne probably injured his cause before the court martial by using language that was too heated and which overstated the harm done, but the occasion justified much of his wrath.

Another controversy, which led directly to the January resolutions of Congress, was aroused by the demand of Congress for lists of Burgoyne's soldiers. On November 8 Congress resolved that Heath should take an accurate and careful description of all persons concerned in the convention, for purposes of identification, and that Heath should send copies of these lists to the board of war.⁵ The order was communicated to Burgoyne and he refused to comply, complaining that the demand was insulting to his country.⁶ Finally, however, he agreed, but said that he supposed that it would answer the purpose if the

¹ This letter is printed in *Mag. Am. Hist.*, 1885, p. 484.

² The fullest account of this well-known case is in Anburey, II, 81 *et seq.* See also P. W. Chandler, *Criminal Trials*, II, 150 *et seq.*

³ Anburey, II, 95.

⁴ *Ibid.* II, 130.

⁵ Journals of Congress, III, 486, 487.

⁶ Heath Papers, II, 186-188.

lists were furnished at any time before the troops departed. Heath saw that the work could not be done by force, because all information about the soldiers could be evaded except size and complexion, so he set the matter before Congress. President Laurens wrote Heath not to press the demand, as Congress would consider it.¹

While these things were happening in Cambridge, Washington was thinking about the convention. He foresaw that if the convention prisoners were allowed to return to England, they could relieve garrisons at home and thus enable the ministry, without violating the words of the agreement, to send an equal number of other troops against the United States. But this would take away all the benefits of the hard-earned and sorely needed victory at Saratoga. Yet, on the other hand, Washington regarded the terms of the treaty as "obligatory."² In order, therefore, to satisfy at the same time his desire to win every advantage to the American cause and his strict sense of honor, Washington suggested to Heath that while the troops should be allowed to embark, yet the embarkation should not be facilitated. "I look upon it that their principal difficulty will arise from the want of provisions for the voyage; and therefore, although I would supply them with every article agreeable to stipulation, I would not furnish an ounce for sea-store, nor suffer it to be purchased in the country."³ Later in the same month Washington communicated his fears to the president of Congress.⁴ It was in a similar spirit of carrying out the obligations of the treaty but not hastening the departure of the prisoners that he opposed allowing the troops to embark from Rhode Island, when it was rumored that Howe would request such a privilege rather than send his transports around the stormy Cape Cod in winter.⁵

¹ Heath, *Memoirs*, pp. 140 *et seq.*

² Washington to Powell, President of the Council of Mass., November, 5, 1777; Sparks, Washington, V, 137, 138; *cf. ibid.* 143-145.

³ November 5, 1777. Heath Papers, II, 77.

⁴ Washington to Laurens, November 26, 1777. Sparks, Washington, V, 171.

⁵ Sparks, Washington, V, 26.

Congress, also, had been thinking the convention over and was going through the process of changing its mind. On November 4 it had voted thanks to General Gates for his capture of Burgoyne "upon terms honourable and advantageous to these states," and had ordered that a medal be struck and presented to the victor.¹ About the same time the war office wrote to Gates asking for an exact return of the military stores taken from the enemy.² On November 22 it was resolved to send to Gates a series of questions concerning the small quantity of stores which he reported captured, but at the same time it was declared: "That it is not to be understood that the embarkation of the troops under lieutenant general Burgoyne is in any wise to be delayed on account of the foregoing queries, if transports arrive before the answers are returned and the enquiry directed is finished."³ Gates's reply to the inquiries was that some of the accoutrements had been forgotten in the convention and much that was captured was afterwards lost or was sold by the American soldiers for drams. He expressly absolved Burgoyne from any blame. The obvious inference from the reply was that Gates was himself careless in making the convention and in seeing to its fulfillment, though this did not prevent Congress from using the smallness of the captured stores as part of the pretext for its January resolutions.⁴ It was just after Congress voted to inquire why Gates had captured so small a quantity of supplies, that Washington wrote to Laurens of his fear that the prisoners, if allowed to return to England, would merely relieve garrisons there. It was in December that Congress received word from Gates of the letter of Burgoyne declaring the public faith "broke." It seems clear that these two letters had great influence in bringing about a change in

¹ Journals of Congress, III, 373, 374 (ed. 1800).

² Richard Peters, Secretary, to General Gates. Gates Papers, vol. 11.

³ Journals of Congress, III, 524-526.

⁴ In the manuscript draft of the reply of Gates, in the Gates Papers, explanation is made that on the day of the surrender he was so busy that he was unable to give as much attention to the fulfillment of the terms as he could have wished. This explanation is crossed out with a sweeping X, as if Gates feared that he might seem to admit neglect of his duties.

the attitude of Congress. At any rate, Laurens wrote on December 27 to Heath, instructing him to ascertain the tonnage of the transports which Howe was sending around to Boston and the amount of fuel and provisions which he had, so as to see whether they were sufficient to take so many prisoners to England, for Congress feared that the transports might merely carry the captives around to New York and reinforce the army there. Further, Heath was to see that "all accounts be liquidated and the amount due by Lt. Genl. Burgoyne . . . actually paid in gold or silver . . ."¹ These acts would delay embarkation "without subjecting the honour of the House or of its constituents to any unfavorable imputation from the world," and would give Congress more time to consider a settled policy about the prisoners.

The policy was soon settled. On January 2, Congress resolved that Burgoyne's letter to Gates saying, "the public faith is broke" was unwarranted and was a strong indication of his intention to break his own obligations. It was voted that the States were no longer sure of his personal honor. On January 3 Congress voted to hold the troops until the convention should be explicitly ratified by the court of Great Britain. This was a mere pretext for delay, for Congress well knew that Great Britain would concede no such recognition of the independence of the the United States. Moreover, any demand for ratification of the treaty should have been made long before. On January 8 Congress considered letters from Heath, Burgoyne and Gates. The report of a committee expressed suspicion of the good faith of Burgoyne, on the grounds of "numbers of the cartouch boxes and several other articles of military accoutrements missing," Burgoyne's letter to Gates, "many other circumstances attending the delivery of the arms and military stores," and the failure of Burgoyne to comply with requests for lists of his soldiers. Embarkation was therefore suspended. The vote came on the question whether the convention had been broken by the failure to deliver up the cartouch boxes and "several other

¹ Laurens to Heath, December 27, 1777. Heath Papers, II, 194 *et seq.*

articles of military accoutrements." Fourteen members voted aye; four, no.¹

The common soldiers had now to submit to the inevitable and settle down for a long stay in America, but General Burgoyne felt that it was necessary for him to return to England. On February 11 he wrote to Congress asking for a parole for himself and the officers of his family, because of poor health and because of need to defend himself from aspersions after "an intricate and unsuccessful campaign."² The desired parole was granted by Congress March 3. But before he was allowed to depart, Congress had a final demand to make. On December 19 it had been voted that supplies furnished Burgoyne's troops should be paid for in solid coin or replaced in kind.³ The demand was made on the ground that Howe had compelled the sending-in of provisions for American prisoners, had prohibited the circulation of state paper in districts under his control and had counterfeited large sums of continental bills of credit. Congress resolved that Burgoyne should not leave America until his bills were paid. And so arrangements were made for paying for provisions in kind, and for fuel and the expenses of the march from Saratoga in coin. The unloading at Boston of the provisions sent to liquidate the accounts was paid for by Heath in currency, but Congress compelled the British to repay the cost of handling in specie.⁴

The difficulties of taking care of the prisoners still continued. In June, 1778, a British lieutenant was shot by an American sentinel. Provisions continued scarce. On February 19 Congress resolved that, inasmuch as the troops were to be kept, the Council of Massachusetts should be authorized to distribute the troops in any way most convenient for subsistence and security.⁵ In the middle of April one brigade of the prisoners was moved

¹ Journals of Congress, IV, 4-7, 13-18.

² De Fonblanque, Burgoyne, pp. 328, 329. After his return, a parliamentary investigation and a war of pamphlets ensued. Burgoyne published his *State of the Expedition*, which is a valuable source of information about the campaign and the surrender.

³ Journals of Congress, III, 581, 582.

⁴ Heath, *Memoirs*, pp. 160 *et seq.* Heath Papers, III, 299; II, 225, 226. Baxter, *Digby's Journal*, pp. 60, 61.

⁵ Journals of Congress, IV, 108.

to Rutland, a hill town in the middle of the state.¹ The burden was still too great for Massachusetts; and on September 11 Congress voted that Sir Henry Clinton should be informed that, unless passports to American ships to get provisions to the convention troops about Boston were granted within three days or measures were taken by him for sending to Boston ample supplies of provisions and fuel by October 5, Congress would deem itself justified in removing the prisoners to other parts of the United States. Nothing resulted from the request, and on October 16 Washington was directed to take steps to remove the conventioners to Charlottesville, Virginia.²

The prisoners had now to face a journey of eight hundred miles in winter, with insufficient clothing. On November 10 the whole body, now numbering 4145, started southward in three divisions, one day's march apart.³ The line of march led through the center of Massachusetts to the Connecticut River, then down into Connecticut and across the state, over the Hudson at Fishkill, through New Jersey and so into Pennsylvania. From Lancaster, in the last named state, they went across Maryland and finally into Virginia. It was the beginning of the new year (1779) when the march ended. The weather was unusually severe for Virginia, and snow covered the ground.⁴ At first, therefore, the troops suffered, as they were in block houses without windows or doors, but they went diligently to work and constructed better dwellings, so that "in a short time, the place assumed the appearance of a neat little town."⁵ Pleasant relations grew up between Jefferson, whose home was near Charlottesville, and the commanders of the prisoners. The officers were allowed to go a circuit of 100 miles on parole, and many lived at plantations 20 to 30 miles away from their men, although later this privilege was restricted to 20 miles.⁶

But the trials of the much abused conventioners were not

¹ Anburey, II, 192, 193.

² Journals of Congress, IV, 532, 533, 600, 601.

³ Heath Papers, II, 279.

⁴ Anburey, II, 281 *et seq.*

⁵ Mme. Riedesel gives some account of her life in Virginia, *Memoirs*, pp. 215 *et seq.* Cf. Anburey, II, 392 *et seq.*

⁶ Anburey, II, 284, 356.

over. September 20, 1780, Congress resolved that the governor and council of Virginia should prepare to move the troops northward, in case of an invasion of the state¹; and in October part of the army started. They were sent to Lancaster in Pennsylvania. Later, those who had been left behind in Virginia were sent north.² At Lancaster the privates and non-commissioned officers remained, while the other officers were sent to East Windsor, Connecticut, where they stayed a short time before being exchanged.³

Between the convention of Saratoga and the final exchange of the convention troops, the number of desertions was so great that the army almost melted away. December 4, 1777, while the army was still in Cambridge, Burgoyne issued orders concerning the "unprecedented Disgrace into which these Troops are sinking" by reason of the "unmanly Cowards" and "wretches" who desert.⁴ That the general had reason to be angry is shown by the fact that at the end of two months nearly 400 British and 20 Germans had deserted.⁵ On April 19, 1778, Heath wrote to Phillips (commander after Burgoyne left for England) that he had forbidden the enlisting of either prisoners or deserters from the convention army, but added: "The Arts and Deceptions made use of by your People, by Dressing themselves in sailors & peasants habit and by the most solemn Protestation of having no Connections with the army are Constantly Imposing upon the recruiting officers, to their great Embarrassment."⁶ On May 20, 1778, Anburey wrote: "The Americans are too successful in enticing our soldiers to desert; a few days since, the whole band of the sixty-second regiment, excepting the Master, deserted in a body, and are now playing to an American regiment in Boston."⁷ According to the same writer, many, especially Germans, deserted during the journey through New York, New Jersey and Pennsylvania, when they

¹ Journals of Congress, VI, 294.

² *Ibid.*, VI, 390; VII, 40, 50, 51.

³ Anburey, II, 443, 444, 448, 477, 483.

⁴ Rogers, Hadden's Journal and Orderly Book, pp. 330 *et seq.*

⁵ Eelking, German Allies, p. 145. Cf. Lowell, Hessians, ch. 24.

⁶ Rogers, Hadden's Journal, pp. 348, 349.

⁷ Anburey, II, 205.

saw how comfortably their countrymen were living there.¹ By the spring of 1781, a regiment that had numbered 450 men in Canada was reduced to 60 men.²

About the release of the convention prisoners, little can be said, except that individuals and small groups, generally officers, were constantly being exchanged. In 1778 a demand was made by the British peace commission that the troops be allowed to depart. Nothing came of this³; but some exchanges were made, since Congress resolved, October 31, that a return be made to General Heath of the officers of the convention troops who had been exchanged and for whom.⁴ During the next few years Congress paid much attention to the matter of exchanges of prisoners, the gist of the resolutions being that Washington was authorized to arrange cartels.⁵ A partial exchange of Germans, chiefly officers, was effected in 1780. In that year both Riedesel and Phillips were released. Next year Anburey speaks of the release of some prisoners, himself among the number.⁶ As late as May, 1783, some German regiments were still in Maryland, but were released about that time.⁷ Doubtless these were among the last to be exchanged.

The convention and its breaking have been the source of endless controversy. Many British historians have soundly cudgelled Congress for its "Punic faith," and American excuses have been rather lame. If full justice is to be done to both sides—if such a thing is at all possible—several points must be considered.

(1) Gates's convention was a poor one. The victors gave too much and received too little. The agreement left too much to "words of honor" and "public faith," which are notoriously weak when subjected to the strain of war. The temptation for the Americans to break the treaty was therefore very great.

¹ Anburey, II, 275, 276.

² *Ibid.* II, 388 *et seq.*, 436, 437.

³ American Antiquarian Society Proceedings, October 22, 1877, pp. 68, 69.

⁴ Journals of Congress, IV, 630.

⁵ Journals of Congress, V, 85, 239; VII, 170, 279, 437, 474, 475.

⁶ See Riedesel, *Memoirs*, pp. 221 *et seq.*; Eelking, *German Allies*, pp. 151, 152; Anburey, II, 477, 483.

⁷ Eelking, pp. 260, 261.

(2) It is a grave question whether Burgoyne would not have broken his promise to sign the treaty if he had been a little more sure of aid from Clinton.

(3) It cannot be doubted that in regard to colors both the British and the Germans violated the agreement.

(4) The troubles over quarters, supplies and discipline were exasperating in the extreme, but most of them were inevitable. This excuse does not apply to the case of Colonel Henley.

(5) Burgoyne was unwise in refusing to give the descriptive lists; for, while the convention did not require him to supply them, yet his refusal added to the suspicions of Congress.

(6) The conduct of Congress was suspicious and small. It seized upon the slightest excuses for holding the prisoners and stoutly refused to repose any confidence in the good faith of the British commanders. Congress could not repudiate the treaty "out of hand," since the generals were acting within their powers in making the convention. Still, it shared Washington's fear that to release the army would be to ruin the American cause; and hence the majority of its members acted as human beings are prone to act under similar circumstances—instead of frankly disavowing the treaty and giving their real reasons, they tried to defend their action under flimsy pretexts.

(7) Finally, Congress showed itself grasping in compelling specie payments for supplies and services.

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